

Federal Energy Regulatory Commission

§ 16.14

(2) Neither the existing licensee nor any other entity has filed an application for a new license for the project;

(3) No one has filed a recommendation to take over the project pursuant to § 16.14; and

(4) The agency that has jurisdiction over the land or reservations demonstrates that it is able and willing to:

(i) Accept immediate responsibility for the nonpower use of the project; and

(ii) Pay the existing licensee for its net investment in the project and any severance damages specified in section 14(a) of the Federal Power Act.

(c) *Termination of nonpower license.* A nonpower license will be terminated by Commission order when the Commission determines that a state, municipal, interstate, or Federal agency has jurisdiction over, and is willing to assume regulatory responsibility for, the land, waterways, and facilities included within the nonpower license.

[Order 513, 54 FR 23806, June 2, 1989, as amended by Order 2002, 68 FR 51142, Aug. 25, 2003]

§ 16.12 Application for exemption from licensing by a licensee whose license is subject to sections 14 and 15 of the Federal Power Act.

(a) An existing licensee whose license is subject to sections 14 and 15 of the Federal Power Act may apply for an exemption for the project.

(b) An applicant for an exemption under paragraph (a) must meet the requirements of subpart K or subpart J of part 4 of this chapter, and §§ 16.5, 16.6, 16.7, 16.8, 16.9(b) (1), (2) (except the requirement to comply with §§ 4.41, 4.51, or 4.61 of this chapter), 16.9(c), 16.10(a), 16.10(b), and 16.10(d).

(c) The Commission will process an application by an existing licensee for an exemption for the project in accordance with §§ 16.9(b)(3), 16.9(b)(4), and 16.9(d).

(d) If a license application is filed in competition with an application for exemption filed by the existing licensee, the Commission will decide among the competing applications in accordance with the standards of § 16.13 and not in

accordance with the provisions of § 4.37(d)(2) of this chapter.

[Order 513, 54 FR 23806, June 2, 1989, as amended by Order 699, 72 FR 45324, Aug. 14, 2007]

§ 16.13 Standards and factors for issuing a new license.

(a) In determining whether a final proposal for a new license under section 15 of the Federal Power Act is best adapted to serve the public interest, the Commission will consider the factors enumerated in sections 15(a)(2) and (a)(3) of the Federal Power Act.

(b) If there are only insignificant differences between the final applications of an existing licensee and a competing applicant after consideration of the factors enumerated in section 15(a)(2) of the Federal Power Act, the Commission will determine which applicant will receive the license after considering:

(1) The existing licensee's record of compliance with the terms and conditions of the existing license; and

(2) The actions taken by the existing licensee related to the project which affect the public.

(c) An existing licensee that files an application for a new license in conjunction with an entity or entities that are not currently licensees of all or part of the project will not be considered an existing licensee for the purpose of the insignificant differences provision of section 15(a)(2) of the Federal Power Act.

Subpart C—Takeover Provisions for Projects Subject to Sections 14 and 15 of the Federal Power Act

§ 16.14 Departmental recommendation for takeover.

(a) A Federal department or agency may file a recommendation that the United States exercise its right to take over a hydroelectric power project with a license that is subject to sections 14 and 15 of the Federal Power Act. The recommendation must:

(1) Be filed no earlier than five years before the license expires and no later than the end of the comment period specified by the Commission in: